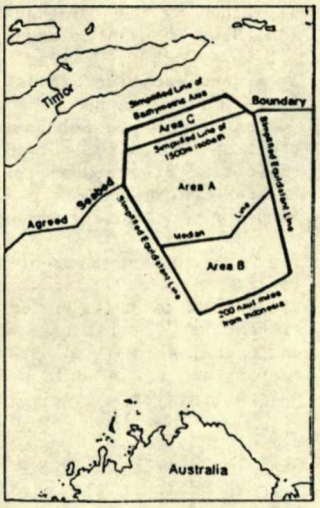
Campaign against the Timor Gap Treaty

On 11 December 1989, in flagrant violation of international law, Australia entered into an unholy pact with Indonesia for the joint exploitation of oil and natural gas deposits in the stretch of sea between Australia and East Timor. The negotiations have been under way for ten years. The Australian petroleum industry has been eager to lay hands on these deposits, arguing that this is essential to reverse a decline in Australian petroleum reserves. Expanded exploitation will also bring huge tax benefits for the Australian treasury.

The 'Timor Gap'

The word 'gap' is used to denote the stretch of sea between East Timor and Australia where no sea boundary has yet been drawn. In the early 1970s, negotiations were under way between Portugal and Australia to agree a boundary but were never completed. Even now, after years of negotiation, no agreement has been reached between Indonesia and Australia on the boundary. Yet so eager are the two sides to reach agreement that they have decided to go ahead, leaving unresolved the 'dispute' over the boundary.



The Treaty divides the 60,000 square miles of sea into three areas, a southern sector, Zone B where Australia will exercise exclusive rights, a central sector, Zone A where exploitation will be managed by a Joint Authority of the two countries with revenues shared 50:50, and a northern sector, Zone C where Indonesia will exercise exclusive rights.

Oil and Australian recognition of annexation

Throughout 1976 and 1977, the Australian government refused to accept Indonesia's claim to have 'integrated' East Timor. On 20 January 1978 the Australian Government announced that it 'has decided to accept East Timor as part of Indonesia'. While remaining critical of the way in which 'integration' had been brought about, it claimed that 'it would be unrealistic to continue to refuse to recognise *de facto* that East Timor was a part of Indonesia'. In 1979, *de facto* recognition was replaced by *de jure* recognition.

Five years after negotiations on oil reserves in East Timor's waters began, when the talks were still bogged down, Prime Minister Bob Hawke reiterated Australia's *de jure* recognition on 22 August 1985. The need for this rather unusual re-statement of recognition had arisen out of Australia's desire to reach agreement with Indonesia regarding East Timor's oil. Hawke alleged at the time that 'negotiations over the Timor Gap seabed could in reality only take place with Indonesia'. This was the price the Labour Government was prepared to pay, bartering the rights of the people of East Timor for the right of petroleum companies to exploit East Timor's wealth.

The hypocrisy of Australia's position is revealed in a statement by the

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Foreign Minister, Senator Gareth Evans, on 1 November 1989 [*Senate Daily Hansard*]:

We have taken the view since 1979 that whatever the unhappy circumstances and indeed, possible illegality, surrounding Indonesia's acquisition of East Timor in the 1970s, Indonesian sovereignty over the territory should be accepted not only on a de facto but on a de jure basis. There is no binding legal obligation not to recognise acquisition of territory that was acquired by force.

A potentially lucrative deposit

Estimates of the value of the 'Timor Gap' deposit vary greatly. One puts the oil reserves at one billion barrels. [*Financial Times*, 14 December 1989] According to another source, oil reserves are estimated at between 1 and 6 billion barrels and natural gas reserves at between 3 and 17 trillion cubic feet. [*The Age*, 9 September 1988] The area is widely regarded as one the world's 25 richest oil deposits.

Australian petroleum companies are already exploiting oil reserves in two off-shore oil fields located about 200 kilometres south-east of the area, known as Challis and Jabiru, where they are currently extracting about 60,000 barrels of oil a day, about 10% of Australian production; reserves in these fields are put at about 125 million barrels. They have been exerting strong pressure on the Hawke government for years for permission to carry out exploration and exploitation in the Timor Gap region. In 1983, when it appeared that some Australian companies may have succeeded, the Australian Defence Minister warned that such concessions would place heavy strains on the Australian Navy in defending such operations against Indonesian interference.

Australian companies which have already spent millions of dollars on exploration in the area include a consortium of the Western Mining Corporation and Charterhall Oil and Woodside Petroleum. [*Australian*, 12 December 1989.] Lobbying for concessions in the area has also come from Pelsart Oil, Oil and Minerals Quest, Otter Exploration and Australian Aquitaine. [*Financial Times*, 7 September 1988] Foreign oil companies are also expected to start bidding for concessions. The Australian Minister for Resources, Peter Cook, said he wanted to make it an 'open system' and would be inviting bids from foreign as well as domestic companies. [*Nihon Keizai Shimbun*, 31 January 1989]

Australian Parliament and the Treaty

Following the signing of the Treaty on 11 December, it must now be ratified by the parliaments of the two countries. It is thought likely that the Australian Parliament will discuss ratification in early 1990. We have been informed that both major parties, the Labour and Liberal Parties will support the Treaty. The Australian group of Parliamentarians for East Timor has not yet condemned the Treaty. It is clear that an *enormous* amount of pressure will be needed, even on parliamentarians who generally support East Timor, to bring about a major challenge to this Treaty in the Australian Parliament.

If ratification goes ahead, the two countries will establish a Joint Authority in Jakarta with an office in Darwin. It is expected that major world oil companies will apply for concessions to explore and exploit the oil resources of the 'Timor Gap'. This means that national governments should be urged not to approve of oil company involvement in Timor Gap oil

exploitation, because of the Treaty's illegality in international law.

Political/strategic importance of the Treaty for Indonesia

For Indonesia, the political and strategic significance of the Treaty far outweighs its economic significance. It represents a crucially important agreement with Australia which Jakarta can now claim to be the first ever international accord formally legitimising Indonesia's annexation of East Timor. It also provides an institutional basis to guarantee Australia's continuing commitment to and support for the illegal annexation of East Timor.

The Treaty comes at a time when both Jakarta and Canberra have been devoting enormous efforts to improving the relations between the two countries. It is noteworthy that there was hardly any negative editorial comment in the Australian press when the Treaty was signed.

The agreement was reached after ten years of talks, when the main stumbling block was the wide divergence of opinion between Indonesia and Australia over the seabed boundary. Indonesia holds by the principle of the 'median line' between countries which sets the boundary along the south of what is now established as Zone A. [See diagram] As a signatory of the 1982 UN Law of the Sea Convention (of which Australia is also a signatory), Indonesia knows that once the Convention becomes law which is likely in the next couple of years, it could also claim an area up to 200 miles from 'its' ie (East Timor's) coast which includes the whole of Zone B as well. Australia on the other hand upholds the continental shelf principle which would take the boundary very much farther north, along the line representing the northern boundary of Zone C. These two positions were recognised by both sides as 'irreconcilable'.

In 1988, Indonesia made a major concession, accepting that the 'disputed area' at present consists only of what is defined as Zone A. This was a major breakthrough for Australia. After this concession, in September 1988, an interim agreement was reached for a zone of cooperation, making the present Treaty possible.

Politically speaking, this represented a major shift in Indonesia's attitude towards its relations with Australia; Jakarta had until then allowed the bilateral relations to deteriorate to such an extent that no Australian journalists were permitted to operate in Indonesia and no ministerial contacts were taking place. Scheduled talks about the Timor Gap were also cancelled. It is likely that the shift reflects the diminished role of General Benny Murdani who, as armed forces commander-in-chief until March 1988, had kept the relationship as such a low ebb. Mochtar Kusumaatmaja's removal as Foreign Minister may have helped as Mochtar was one of the leading architects of the UN Law of the Sea Convention and is likely to have been a hardliner on the boundary dispute keeping the two countries apart.

There is evidence that this shift in Jakarta took place on the direct instructions of President Suharto who must have recognised the political and strategic significance of a Treaty with Australia in Indonesia's long-running diplomatic battle to win international recognition for its annexation of East Timor. In Canberra, the Treaty has been described by Foreign Minister Gareth Evans as "Australia's most important agreement with Indonesia in the forty years of the relations between the two countries". Indonesia may also expect that involvement of other foreign oil companies in the area will bolster its position internationally.

In Indonesia, the Treaty has been sharply criticised by Professor Herman Johannes, a well-known academic, formerly rector of Gajah Mada University and one-time member of the Supreme Advisory Acouncil. He argues that Indonesia has made unwarranted concessions on the boundary issue and describes the Treaty as 'extremely detrimental to Indonesia economically'. Johannes has repeated his criticisms on a number of occasions, despite rebuttals by the government, forcing commentators to admit that although the Treaty may not be beneficial economically, its political and strategic significance far outweighs this.

East Timor's legitimate claim

The controversy in Jakarta is being argued in terms of 'Indonesia's claim'. The fact is that the entire 60,000 square kilometre area is rightfully part of East Timor's territorial waters and falls within its economic exclusion zone, under the terms of the 1982 UN Law of the Sea Convention. This includes not only Zone A where concessions will be allocated by the Joint Authority and the revenues shared 50:50, but also Zone B which will be under Australia's exclusive control.

At a demonstration against the Treaty in Canberra on 7 December 1989, J. Ramos Horta strongly criticised the hypocrisy of the Hawke government. "Gareth Evans and Bob Hawke have previously said that East Timor is too poor to successfully achieve self-determination and yet they are now exploiting its natural resources which, according to the UN 1982 Law of the Sea Convention, is in East Timor's exclusive economic zone." [*Sydney Morning Herald*, 7 December 1989]

The Portuguese Government has repeatedly made known its strong opposition to the Treaty. It stresses that under international law, the region is recognised as being under the administrative power of Portugal and has stated that it will take action 'in the appropriate international forums and organisations' to have the Treaty declared illegal. Although the most appropriate forum would be the International Court of Justice, Lisbon has not yet committed itself to taking the issue to the Court.

Campaign strategy

1. Protest in the strongest terms to the Australian Government. For the greatest international impact, try to hold a demonstration outside the Australian embassy and have a meeting with the ambassador to hand over a letter of protest. Make sure that locally-based Australian journalists are informed of your action.

2. Write to the Australian group of Parliamentarians for East Timor. The convener of the group is Tony Lamb MP, 22 Main Street, Croydon, Victoria 3136.

3. Write to the Portuguese Government urging it to take the matter to the International Court of Justice without delay. For greater impact, you should make sure that the Portuguese embassy and locally-based Portuguese journalists are informed of your action.

4. Write to your own government calling on it to condemn the Treaty as being illegal, and insisting that oil companies be not given the necessary go-ahead to carry out exploration or exploitation under the terms of the Treaty.

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